

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 9, 16 and 25-31 are pending in the application, with claims 9 and 25 being the independent claims. Claim 17 is sought to be cancelled without prejudice to or disclaimer of the subject matter therein. New claims 25-35 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Support for new claims 25-35 can be found, *inter alia*, on page 16, line 6 to page 17, line 22; page 20, line 24 to page 21, line 14; page 22, lines 3-16; page 40, lines 9-14; page 44, line 26 to page 45, line 31; and page 49, lines 12-29.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Examiner Telephone Interview

Applicants' representative thanks the Examiner for the telephone interview on February 10, 2005, in which the Examiner agreed to enter claims directed to the non-elected species of previously presented claims 17-22. Such claims are presented herein as claims 25-35. As claim 9 is a composition claim, any additional component is a further limitation.

Claim 9 is generic. If claim 9 is found to be allowable following reconsideration of the application in light of the present communication, Applicants respectfully request

that the withdrawal of claims directed to additional species (*i.e.*, claims 9, 16, and 25-35) be removed in accordance with 37 C.F.R. § 1.141(a).

Obviousness-type Double Patenting

U.S. Appl. No. 10/149,915

The Examiner has provisionally rejected claims 9, 16 and 17 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of copending U.S. Appl. No. 10/149,915. Applicants believe that the inventions of these applications are separately patentable. However, without acquiescing to the rejection and solely to advance prosecution, Applicants submit herewith a terminal disclaimer to obviate the provisional double patenting rejection over claims 1-39 of copending U.S. Appl. No. 10/149,915. Accordingly, Applicants respectfully request that the Examiner withdraw the provisional rejection as it may apply to the amended claims.

U.S. Patent No. 6,602,510

The Examiner has rejected claims 9, 16 and 17 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,602,510. Applicants believe that the inventions of this patent and the instant application are separately patentable. However, without acquiescing to the rejection and solely to advance prosecution, Applicants submit herewith a terminal disclaimer to obviate the double patenting rejection over claims 1-11 U.S. Patent No. 6,602,510. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection as it may apply to the amended claims.

Rejections under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claim 17 under 35 U.S.C. § 112, second paragraph for allegedly being indefinite. Specifically, the Examiner alleged that the linked peptide of claim 17 would "encompass an immunogenic peptide that is greater than about 15 amino acids", the length recited in claim 9, from which it depends. Applicants submit that the T helper is a second moiety separate from the immunogenic peptide. Applicants respectfully traverse this rejection as it may apply to new claims 25-35.

Accordingly, claim 17 has been cancelled, and new claims 25-35 have been added to further clarify Applicants' invention. These claims are directed to a composition comprising i) an immunogenic peptide of less than about 15 amino acids in length comprising SMPPPGTRV (SEQ ID NO:4), and ii) one or more different moieties. These moieties were originally presented as claims 17-22. Because the size limitation is clearly refers to the immunogenic peptide component and not the one or more different moieties, Applicants respectfully request that the indefiniteness rejection be withdrawn.

Other Matters

The Examiner has required Applicants to resubmit a clean copy of the PTO 1449 submitted with the information disclosure statement filed July 22, 2004. Said PTO 1449 is resubmitted herewith.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the

Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Victoria S. Rutherford

Victoria S. Rutherford
Agent for Applicants
Registration No. 52,253

Date: February 22, 2005

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

365072.1